

Serial No. 10/022,655  
Amendment dated February 27, 2004  
Reply to Office Action of August 27, 2003

### **REMARKS**

This amendment is intended as a full and complete response to the non-final Office Action mailed August 27, 2003. In the Office Action, the Examiner notes that claims 1-23 are pending, of which claims 1-23 are rejected under one or more of the following statutory sections: 35 U.S.C. §102, and 35 U.S.C. §103. The Examiner also noted that the specification and claims 19 and 21 are objected to and require appropriate correction. The Examiner further noted that the drawings filed on December 17, 2002 have been accepted.

By this response, the specification has been amended at pages 10 and 13 to correct typographical errors, at page 1 to insert a missing Serial Number, and on page 19 to insert language from the Summary of the Invention section. Claims 1, 2, 22 and 23 have been cancelled. Claim 5 has been rewritten in independent form to include all the limitations of the base independent claim and the intervening claim. In view of the cancellation of claims 1 and 2, the dependencies of claims 3, 4, 9, 10, 11, 13, and 17 have been amended. New claims 24 through 35 have been added. Claims 13, 19 and 21 have been amended to correct typographical errors. Claims 4, 6, 7, 8, 9, 10, 11, 12, 18, and 19 have been amended to clarify respective features of Applicants' invention. Claims 14-16 remain in original form. In view of the above amendments and the following discussion, Applicants submit that the claims pending in the application are believed to be novel under 35 U.S.C. §102 and nonobvious under 35 U.S.C. § 103. Thus, Applicants believe that the application is in condition for allowance.

### **I. OBJECTIONS TO SPECIFICATION AND CLAIMS**

The Examiner has objected to the incorporation by reference on page 1 of the specification for failure to include the provisional application serial number. Since the provisional application was filed only four days prior to filing the instant application, the serial number was in fact unavailable at the time. The specification has now been amended to include reference to serial number 60/340,329. This amendment is

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believed to obviate the grounds for objection. Applicants respectfully request that the objection be withdrawn.

The Examiner has objected to the terms on pages 10 and 13 of the specification for failure to include a space to separate adjacent words in the term. Appropriate amendments have been made to the affected terms on pages 10 and 13. The specification has now been amended to call for "software 118" and "Fig. 3". This amendment to the specification is believed to obviate the grounds for objection. Applicants respectfully request that the objections be withdrawn.

The Examiner has objected to claims 19 and 21. Particularly, in reference to claim 19, it was noted that the system claim included language to "the method comprising." This language has been amended to recite "the system comprising" in the preamble. It was further stated that, in reference to claim 21, a typographical error existed in the term "claim 20wherein." Applicants have amended claim 21 to correct the typographical error. These amendments to the claims are believed to obviate the grounds for objection. Therefore, Applicants respectfully request that the Examiner's objections to the claims be withdrawn.

## **II. REJECTION UNDER 35 U.S.C. §102(b)**

The Examiner has rejected claims 1-2, 9-14 and 18-19 under 35 U.S.C. §102(b) as being anticipated by Ohkura et al. (U.S. Patent 5,737,029, hereinafter "Ohkura"). Claims 1 and 2 have been cancelled. Claims 9, 10, and 13 have been amended to be dependent from amended independent claim 5. Claims 18 and 19 have been amended to include additional limitations. In view of these amendments, Applicants respectfully submit that the amended claims are allowable over Ohkura.

Since claims 9-14 have now been amended to depend, either directly or indirectly, from amended claim 5, it is important to understand the differences between the base claim and the cited reference. Applicants' amended claim 5, now the independent base claim for claims 9-14, recites:

*"A method for automatically flagging one or more tunable channels broadcast over a distribution network as a favorite channel, the method comprising:  
monitoring commands input by a user through the use*

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*of an input device to detect a command from the user to tune a channel;  
recording an identifier for the channel and  
incrementing a channel tune count indicator for the channel;  
selecting identifiers corresponding to top channel tune count indicators for inclusion within a list of automatic favorite channels, wherein the list of automatic favorite channels is associated with the identifier and the indicator for each channel contained therein; and  
removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value."*

The Ohkura reference fails to disclose each and every element of the claimed invention, as arranged in the claim. In particular and with respect to the independent base claim, claim 5, for the rejected claims dependent thereon, Ohkura does not teach, show, or suggest "incrementing a channel tune count indicator" or "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value."

The Examiner appears to be in agreement that Ohkura lacks any teaching about the former step because he has stated in §6 of the Office Action that "incrementing a channel tune count indicator" is "inherently" taught by Ohkura. This can only be understood to mean that Ohkura has no express or explicit teaching or even remote suggestion about Applicants' claimed step of "incrementing a channel tune count indicator." With respect to the latter step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," the same can be understood because neither claim 5 nor any of its directly dependent claims were rejected in view of Ohkura.

Since the Ohkura reference does not teach, show, or suggest the claimed steps of "incrementing a channel tune count indicator" and "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value", it is believed that the Ohkura reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claims 9-14 depending directly and indirectly from amended claim 5 are not anticipated by the Ohkura patent. Therefore, it is believed that claims 9-14 are allowable under 35 U.S.C. §102.

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Applicants' amended claim 18 now calls for:

*18. Computer readable media comprising program code, the program code capable of being executed by a programmable microprocessor, the program code comprising a method for automatically flagging one or more channels broadcast over a distribution network as a favorite channel, the method comprising:*

*monitoring commands input by a user through the use of an input device to detect a command from the user to tune a channel;*

*recording an identifier for the channel and incrementing a channel tune count indicator for the channel; and*

*selecting identifiers corresponding to top indicators for inclusion within a list of automatic favorite channels, wherein the list of automatic favorite channels is associated with the identifier and the indicator for each channel contained therein; and*

*removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value.*

Amended claim 18 now includes the same two steps of *incrementing* and *removing* that have been discussed above with respect to amended claim 5. For the reasons set forth above with respect to claim 5, it is submitted that Ohkura lacks any teaching of the steps of *incrementing* and *removing* recited in claim 18.

Since the Ohkura reference does not teach, show, or suggest the claimed steps of "incrementing a channel tune count indicator" and "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Ohkura reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 18 as amended is not anticipated by the Ohkura patent. Therefore, it is believed that claim 18 is now allowable under 35 U.S.C. §102.

Applicants' amended claim 19 now calls for:

*19. A system for automatically flagging one or more channels broadcast over a distribution network as a favorite channel, the system comprising:*

*means for monitoring commands input by a user through the use of an input device to detect a command*

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*from the user to tune a channel;*  
*means for recording an identifier for the channel and*  
*incrementing a channel tune count indicator for the channel;*  
*and*  
*means for selecting identifiers corresponding to top*  
*indicators for inclusion within a list of automatic favorite*  
*channels, wherein the list of automatic favorite channels is*  
*associated with the identifier and the indicator for each*  
*channel contained therein; and*  
*means for removing from the list of automatic favorite*  
*channels any identifier whose associated channel tune*  
*count indicator falls below a view threshold value.*

Amended claim 19 now includes two means that are not taught, shown or suggested by Ohkura. These are "means for ... incrementing a channel tune count indicator for the channel" and "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." These means involve functions that are identical to the method steps of *incrementing* and *removing* that have been discussed above with respect to amended claims 5 and 18. Since these steps are not found in Ohkura, it is submitted that the corresponding means are similarly not found in Ohkura. As such, it is submitted that Ohkura lacks any teaching of the means for *incrementing* and *removing* recited in amended claim 19.

Since the Ohkura reference does not teach, show, or suggest the claimed "means for ... incrementing a channel tune count indicator" and "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Ohkura reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 19 as amended is not anticipated by the Ohkura patent. Therefore, it is believed that claim 19 is now allowable under 35 U.S.C. §102.

### **III. REJECTIONS UNDER 35 U.S.C. §102(e)**

#### **A. Rejection of Claims 1-7, 9-14 and 18-23 in view of Candelore**

The Examiner has rejected claims 1-7, 9-14 and 18-23 under 35 U.S.C. §102(e) as being anticipated by Candelore et al. (U.S. Patent Application Publication

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No. 2002/0104081, hereinafter "Candelore"). Claims 1, 2, 22, and 23 have been cancelled. Claims 3, 9, 10, and 13 have been amended to be dependent from amended independent claim 5. Claims 18, 19, and 20 have been amended to include additional limitations. In view of these amendments, Applicants respectfully submit that the amended claims are allowable over Candelore. It should also be noted that no detailed supporting reasons were given in the Office Action for the rejection of claims 9-14 and 18-19.

Method claims 3, 4, 6, 7, and 9-14 now depend, either directly or indirectly from amended claim 5, which has been recited in its entirety above in section II of this amendment. For brevity, it will not be recited in its entirety again herein.

The Candelore reference fails to disclose each and every element of the claimed invention, as arranged in independent base method claim 5. In particular, Candelore does not teach, show, or suggest the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." Additionally, Candelore provides no teaching about a view threshold value as claimed by Applicants.

In support of this rejection of the method claims, the Examiner points to ¶¶ 46 and 48 from the Candelore reference. In ¶ 46, Candelore teaches that, "if the 10 records are used, CPU 29 can replace older records with new ones." In ¶ 48, Candelore teaches the use of relative statistics to prevent rollover of a count, wherein "rollover occurs if the count values in memory approach its maximum count value and resets [to zero]." Each of these teachings will be addressed separately below.

Candelore, in the former paragraph, clearly talks about replacing records in his list of favorites. In fact, according to Candelore, replacement takes place when a newer record exists and the list is full. The newer record replaces the older record in the list. There is no suggestion that the record age has been compared to a view threshold value. Instead, Candelore teaches that a newer record has come into existence and can replace the older record.

In contrast to Candelore, Applicants claim a method in which an identifier is removed from the list when its own channel tune count indicator falls below a view threshold value. This removal is independent of the existence of any other identifiers

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seeking entry onto the list of favorites. Whether a newer record or better record exists is not a material consideration of the claimed *removing* step. As claimed by Applicants and not taught by Candelore, the method involves an internal assessment of identifiers in the list, wherein those identifiers in the list that fall below the view threshold value are removed from the list. Simply put, Applicants call for "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." This step is not taught by Candelore.

In the latter paragraph, ¶ 48, Candelore is concerned about a problem dealing with the rollover of count values. There is no removal operation suggested in this paragraph or, for that matter, any of the related paragraphs. Instead, the integrity of Candelore's list of favorites is maintained when the highest ranking favorite in the list is so high in count that a single up-tick will cause the count for that favorite to reset to zero. When this condition is about to occur, Candelore drops the count for every channel in the list so that the relative positions are at least maintained. But no removal takes place and there is no teaching about falling below a view threshold value.

Therefore, each and every element of the claimed invention, arranged as in claim 5, is not taught or even suggested by the Candelore reference. Candelore lacks any teaching of the step of *removing* recited in amended independent base claim 5. Since the Candelore reference does not teach, show, or suggest the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Candelore reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 5 as amended is not anticipated by the Candelore patent. Therefore, it is believed that claim 5 is now allowable under 35 U.S.C. §102.

Claims 3, 4, 6, 7, and 9-14 depend, either directly or indirectly, from independent claim 5 and recite additional limitations therein. As such and for at least the same reasons recited above with respect to claim 5, Applicants submit that these dependent claims are not anticipated by Candelore. Therefore, it is believed that claims 3, 4, 6, 7, and 9-14 are also allowable under 35 U.S.C. §102.

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No supporting reasons are given in the Office Action for the rejection of computer readable media claim 18. In spite of this and after careful review of the Candelore reference, it is submitted that Candelore does not anticipate amended claim 18 which now calls for "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." As already pointed out in reference to the rejection of claim 5, the Candelore reference does teach both replacement of older records with newer records and resetting of the counts in the list of favorites to new lower relative numbers without removal of any record from the list of favorites. But, as pointed out above in reference to claim 5, Candelore fails to teach removal of an identifier from the list when the indicator for that identifier falls below a view threshold value.

In light of the remarks immediately above, it is believed that each and every element of the claimed invention recited in claim 18 is not taught or even suggested by the Candelore reference. Candelore lacks any teaching of the step of *removing*. Since the Candelore reference does not teach, show, or suggest the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Candelore reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 18 as amended is not anticipated by the Candelore patent. Therefore, it is believed that claim 18 is now allowable under 35 U.S.C. §102.

As stated earlier, no supporting reasons are given in the Office Action for the rejection of system claim 19. In spite of this lack of guidance and after careful review of the Candelore reference, it is submitted that Candelore does not anticipate amended claim 19 which now calls for "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." As already pointed out in reference to the rejection of claims 5 and 18, the Candelore reference does teach both replacement of older records with newer records and resetting of the counts in the list of favorites to new lower relative numbers without removal of any record from the list of favorites. But, as pointed out above in reference to claim 5 and 18, Candelore fails to teach any means for removing



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an identifier from the list when the indicator related to that identifier falls below a view threshold value.

In view of the remarks immediately above, it is believed that each and every element of the claimed invention recited in claim 19 is not taught or even suggested by the Candelore reference. Candelore lacks any teaching of the *means for removing*. Since the Candelore reference does not teach, show, or suggest the claimed "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Candelore reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 19 as amended is not anticipated by the Candelore patent. Therefore, it is believed that claim 19 is now allowable under 35 U.S.C. §102.

After careful review of the Candelore reference, it is submitted that Candelore does not anticipate amended claim 20 which now calls for a system in which the favorite selection software is operative to "remove an identifier from the list of automatic favorite channels whose associated channel tune count indicator falls below a view threshold value." As already pointed out in reference to the rejection of the other claims, the Candelore reference does teach both replacement of older records with newer records and resetting of the counts in the list of favorites to new lower relative numbers without removal of any record from the list of favorites. But, also as pointed out above, Candelore fails to teach any software operative to remove an identifier from the list when the indicator related to that identifier falls below a view threshold value.

In view of the remarks immediately above, it is believed that each and every element of the claimed invention recited in claim 20 is not taught or even suggested by the Candelore reference. Candelore lacks any teaching of the *favorite selection software operative to remove*. Since the Candelore reference does not teach, show, or suggest the claimed "favorite selection software operative to ... remove an identifier from the list of automatic favorite channels whose associated channel tune count indicator falls below a view threshold value," it is believed that the Candelore reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 20 as amended is not anticipated

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by the Candelore patent. Therefore, it is believed that claim 20 is now allowable under 35 U.S.C. §102.

Claim 21 depends directly from independent claim 20 and recites additional limitations therein. As such and for at least the same reasons recited above with respect to claim 20, Applicants submit that dependent claim 21 is not anticipated by Candelore. Therefore, it is believed that claims 21 is also allowable under 35 U.S.C. §102.

**B. Rejection of Claims 1 and 18-20 in view of Florence**

The Examiner has rejected claims 1 and 18-20 under 35 U.S.C. §102(e) as being anticipated by Florence (U.S. Patent Application Publication No. 2002/01888948, hereinafter "Florence"). Claims 1 has been cancelled. Claims 18, 19, and 20 have been amended to include additional limitations. In view of these amendments, Applicants respectfully submit that the amended claims are allowable over Florence.

Applicants, in amended claim 18, call for "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." There is no teaching in Florence of the concepts of removing any items in the favorites list or having indicators of items in the list fall below a threshold. Florence is merely interested in building the favorites list by adding items to it. Florence does not teach, show, or suggest removing items from the list once they have been placed on the favorites list. Particularly, Florence fails to teach removal of an identifier from the list when the indicator for that identifier falls below a view threshold value.

Therefore, it is believed that each and every element of the claimed invention recited in claim 18 is not taught or even suggested by the Florence reference. Florence lacks any teaching of Applicants' claimed step of *removing*. Since the Florence reference does not teach, show, or suggest the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Florence reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 18 as amended is not anticipated

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by the Florence patent. Therefore, it is believed that amended claim 18 is now allowable under 35 U.S.C. §102.

In amended claim 19, Applicants call for "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." There is no teaching in Florence of means for removing any items in the favorites list or triggering such removal on the condition of having indicators of items in the list fall below a threshold. As stated above, it appears that Florence is merely interested in building the favorites list by adding items to it. Florence does not teach, show, or suggest an element for removing items from the list once they have been placed on the favorites list. Particularly, Florence fails to teach means for removing an identifier from the list when the indicator for that identifier falls below a view threshold value.

Therefore, it is believed that each and every element of the claimed invention recited in claim 19 is not taught or even suggested by the Florence reference. Florence lacks any teaching of Applicants' claimed *means for removing*. Since the Florence reference does not teach, show, or suggest the claimed "means for removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," it is believed that the Florence reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 19 as amended is not anticipated by the Florence patent. Therefore, it is believed that amended claim 19 is now allowable under 35 U.S.C. §102.

With respect to amended claim 20, Applicants now call for a system in which favorite selection software is operative to "remove an identifier from the list of automatic favorite channels whose associated channel tune count indicator falls below a view threshold value." While Florence does teach about favorite selection software, there is no teaching in Florence of a software element operative to remove any items in the favorites list or triggering such removal on the condition of having indicators of items in the list fall below a threshold. Florence teaches about software that is used for building the favorites list by adding items to it. Florence does not teach, show, or suggest a software element for removing items from the list once they have been placed on the

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favorites list. Particularly, Florence fails to teach favorite selection software is operative to remove an identifier from the list when the indicator for that identifier falls below a view threshold value.

Therefore, it is believed that each and every element of the claimed invention recited in claim 20 is not taught or even suggested by the Florence reference. Florence lacks any teaching of Applicants' claimed *favorite selection software is operative to remove identifiers*. Since the Florence reference does not teach, show, or suggest the claimed "favorite selection software operative to ... remove an identifier from the list of automatic favorite channels whose associated channel tune count indicator falls below a view threshold value," it is believed that the Florence reference does not teach, show or suggest each and every element of Applicants' claimed invention. Applicants respectfully submit that claim 20 as amended is not anticipated by the Florence patent. Therefore, it is believed that amended claim 20 is now allowable under 35 U.S.C. §102

#### **IV. REJECTIONS UNDER 35 U.S.C. §103**

##### **A. Rejection of Claims 1, 13 and 15-16 in view of Noguchi**

The Examiner has rejected claims 1, 13 and 15-16 under 35 U.S.C. 103(a) as being unpatentable over Noguchi et al. (U.S. Patent 6,034,677B1, hereinafter "Noguchi") in view of Candelore. Claim 1 has been cancelled. Claim 13 has been amended to be directly dependent from amended claim 5. Claims 15 and 16 now depend indirectly from amended claim 5. In view of these amendments, Applicants respectfully submit that the amended claims are allowable over Noguchi in view of Candelore.

Applicants' amended independent base claim 5 calls for the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." As argued above in section III.A of this Amendment, Candelore lacks any teaching, showing, or suggestion of this unique step. Moreover, as described immediately below, the addition of the teachings of Noguchi does nothing to cure the infirmities of the Candelore reference.

Noguchi teaches a system for displaying an electronic program guide on a monitor such as a television screen. Noguchi shows a remote control device having a

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number of different controls, one of which is a favorites control. The favorites control allows the user "to designate certain programs as favorite programs." This control also permits "selection of favorite programs." There is no teaching in Noguchi about "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value," as is taught and claimed by Applicants. As a result, the addition of Noguchi's teachings to the teachings of Candelore, even if such addition is properly motivated by the references alone, falls short of teaching, suggesting, or showing Applicants' unique method as a whole.

In light of the remarks presented above with respect to amended independent base claim 5, it is submitted that the Candelore and Noguchi patents fail to teach, show, or suggest Applicants' claimed invention. As a result, it would not have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the Candelore reference with the Noguchi reference and thereby arrive at Applicants' invention as defined by dependent claims 13, 15, and 16, all dependent directly or indirectly from amended independent base claim 5. Therefore, Applicants respectfully submit that claims 13, 15, and 16 are allowable under 35 U.S.C. §103.

#### **B. Rejection of Claim 8 in view of Candelore**

The Examiner has rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Candelore. Claim 8 has been amended to clarify the feature claimed therein. In view of the amendment, it is submitted that claim 8 is now allowable under 35 U.S.C. §103.

Amended claim 8 depends directly from amended independent base claim 5. Applicants' amended independent base claim 5 calls for the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." As argued above in section III.A of this Amendment, Candelore lacks any teaching, showing, or suggestion of this unique step. The remarks on this point will not be repeated herein for the sake of brevity and are, therefore, being incorporated herein.

In addition, Candelore lacks any teachings about view threshold values being dynamically set by a content service provider as claimed by Applicants in amended

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claim 8. With respect to this point, it is important to note at the outset that Candelore lacks any teachings about view threshold values and any purpose to which they are to be put. Candelore also lacks any teaching about having these values dynamically set by the content service provider, as claimed by Applicants. Even the Examiner has said that "Candelore ... does not explicitly disclose or preclude 'setting the view threshold value to a value set dynamically by a content service provider.'" There is clearly no need or motivation to be found in the Candelore reference for adding such values when they are not there in the first instance, despite Examiner's reference to page 3, para. 30 of Candelore. Even if, *arguendo*, Candelore could be said to have taught the existence of such values, and Applicants do not agree that Candelore does so, Candelore has no teaching about how to use such values; Candelore has no teachings about how to obtain such values; Candelore has no teachings about who might dynamically set these values; and Candelore has no teachings about using these values to remove certain identifiers from a favorites list. While Applicants agree that service providers are known to distribute software to set-top boxes in their networks, there is no teaching or no widely known fact worthy of judicial notice that service providers dynamically set view threshold values in customer set-top boxes. It is only through the use of improper hindsight that one is even motivated to make that suggestion. "OFFICIAL NOTICE" cannot be properly taken to remedy the shortcomings of the Candelore reference. Instead, it is necessary to provide a reference such as Applicants' own specification that has the necessary teachings. Without such a reference, the rejection cannot properly stand.

In view of the remarks above with respect to amended dependent claim 8, it would not have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize the Candelore reference, alone or in combination with other prior art references, and thereby arrive at Applicants' invention as defined by dependent claim 8, dependent directly from amended independent base claim 5. As a result, it is submitted that Candelore fails to teach, show, or suggest Applicants' claimed invention. Therefore, Applicants respectfully submit that claim 8 is allowable under 35 U.S.C. §103.

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**C. Rejection of Claim 17 in view of Candelore and McClard**

The Examiner has rejected claim 17 as being unpatentable under 35 U.S.C. §103(a) over Candelore in view of McClard (U.S. Patent 6,438,752 B1, hereinafter "McClard"). Claim 17 has been amended to be dependent on amended independent base claim 5. In view of the amendment, it is submitted that claim 17 is now allowable under 35 U.S.C. §103.

For the reasons set forth above, Applicant submits that independent claim 5 is not obvious in view of Candelore and McClard. Claim 17 depend directly or indirectly from independent claim 5 and recites additional features thereof. As such, and for at least the same reasons as discussed above, Applicants submit that dependent claim 17 is also not obvious in view of the combination of Candelore and McClard.

Amended claim 17 depends directly from amended independent base claim 5. Applicants' amended independent base claim 5 calls for the claimed step of "removing from the list of automatic favorite channels any identifier whose associated channel tune count indicator falls below a view threshold value." As argued above in section III.A of this Amendment, Candelore lacks any teaching, showing, or suggestion of this unique step.

In view of the remarks above and those remarks not repeated herein with respect to independent claim 5, it would not have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the Candelore and McClard references and thereby arrive at Applicants' invention as defined by dependent claim 17, dependent directly from amended independent base claim 5. As a result, it is submitted that Candelore fails to teach, show, or suggest Applicants' claimed invention. Therefore, Applicants respectfully submit that claim 17 is allowable under 35 U.S.C. §103.

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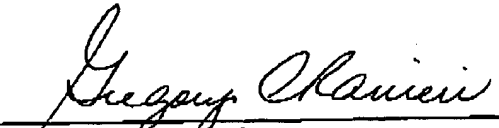
### CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims presently in their application are definite under the provisions of 35 U.S.C. §112, novel under the provisions of 35 U.S.C. §102, and nonobvious under the provisions of 35 U.S.C. §103. Applicants believe that this application is in condition for allowance. Reconsideration of this application and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Gregory C. Ranieri, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: FEBRUARY 27, 2004

  
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**CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. 1.8**

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